

REMARKS

This response is being filed in reply to the Office Action of September 20, 2005 a reply to which was due without payment of additional fee or Request for Extension of Time by December 20, 2005.

Applicants note with appreciation the Examiner's determination that the subject matter of Claim 5 is patentable over the prior art. Applicants have amended Claim 5 to recite the elected invention.

Applicants' election without traverse of Group I, drawn to fused lactones, classified in various classes and subclasses, depending on substituents in the preliminary amendment is hereby affirmed. Applicants have cancelled claims 3, 9, 11, 12 and 14 as being directed to non-elected inventions.

Applicant's attorney has reviewed the inventorship of the application as set forth in paragraph 7 of the Office Action. It is respectfully submitted that inventorship is correct and that amendment is not appropriate.

Claims 1, 2, 4, 6-8 and 10 and 13 stand rejected by the Examiner under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6,462,015. In response to this rejection Applicants have filed a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the rejection.

Claims 1, 2, 4, 6-8 and 10 stand rejected under 35 USC § 102(b) as being anticipated by Merlic et al., in particular structures 13 a-d. It is the Examiner's position that language drawn to consumer materials, perfume compositions, fabric softeners and articles recites intended use and does not add patentable weight and the presence of a solvent and a flask can be fairly inferred, and these would be perfumed by the lactones.

A claim is anticipated if a single prior art reference discloses each and every element of the claimed invention. *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559 (Fed. Cir.

1992). The Merlic et al. reference does not recite every limitation of Claim 1, i.e.,

- A process for augmenting, enhancing or imparting an aroma in or to a consumable material selected from the group consisting of perfume compositions, perfumed articles, colognes and perfume polymers, comprising the steps of intimately admixing with a consumable material base an aroma augmenting enhancing or imparting quantity and concentration of bicyclic lactone...

having the structure recited in currently amended Claim 1 and thus cannot anticipate.

Claim 2 and 7 are dependent on independent Claim 1 and incorporate of the same limitations are allowable for the reasons stated above. Claim 8 is dependent on Claim 2 and is allowable for the reasons stated above.

If the Examiner's opinion is to the contrary, Applicants request the Examiner to point out with specificity, by column and line number, where Merlic et al. discusses the process of Claim 1.

Moreover Claim 1 is not obvious under 35 U.S.C. § 103(a) Applicants submit that the Examiner has not provided any guidance as to the Merlic et al. of any disclosure of a process for augmenting, enhancing or imparting an aroma in or to a consumable material selected from the group consisting of perfume compositions, perfumed articles, colognes and perfume polymers, comprising the steps of intimately admixing with a consumable material base an aroma augmenting enhancing or imparting quantity and concentration of bicyclic lactone having the structure in currently amended Claim 1.

The Merlic et al. reference does not recite every limitation of Claim 4, which recites, inter alia,

- a perfumed article comprising a perfumed article base and an aroma augmenting, enhancing or imparting quantity and concentration of a bicyclic lactone having the structure in currently amended Claim 4.

Therefore, a rejection under 35 U.S.C. § 102(b) is improper and must be withdrawn.

Moreover Claim 4 is not obvious under 35 U.S.C. § 103(a) in view of Merlic et al. Applicants submit that the Examiner has not provided any guidance as to the Merlic et al. of any disclosure of a perfumed article comprising comprising a perfumed article base and an aroma augmenting, enhancing or imparting quantity and concentration of a bicyclic lactone having the structure in currently amended Claim 4.

Merlic et al. provides no teaching or suggestion of the use of bicyclic lactones as fragrance materials.

The Merlic et al. reference does not recite every limitation of Claim 6, which recites, *inter alia*,

- A perfume composition comprising a perfume base and intimately admixed therewith an aroma augmenting, enhancing or imparting quantity of a bicyclic lactone have the structure currently claimed in amended Claim 6.

Therefore, a rejection under 35 U.S.C. § 102(b) is improper and must be withdrawn.

Moreover Claim 6 is not obvious under 35 U.S.C. § 103(a) in view of Merlic et al. Applicants submit that the Examiner has not provided any guidance as to the Merlic et al. of any disclosure of a perfume composition comprising a perfume base and intimately admixed therewith an aroma augmenting, enhancing or imparting quantity of a bicyclic lactone have the structure currently claimed in amended Claim 6.

Merlic et al. provides no teaching or suggestion of the use of bicyclic lactones as fragrance materials.

Claim 10 has been amended to recite subject matter that is not anticipated by Merlic et al. In view of the amendment, Claim 10 is not disclosed, suggested or taught by the Merlic et al. reference and withdrawal of the rejection is respectfully requested.

Claims 1, 4 and 6-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Naigre et al., in particular structure 2 on page 96. It is the Examiner's position that language drawn to consumer

materials, perfume compositions, fabric softeners and articles recites intended use and does not add patentable weight and the presence of a solvent and a flask can be fairly inferred, and these would be perfumed by the lactones.

A claim is anticipated if a single prior art reference discloses each and every element of the claimed invention. *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559 (Fed. Cir. 1992). The Naigre et al. reference does not recite every limitation of Claim 1:

- A process for augmenting, enhancing or imparting an aroma in or to a consumable material selected from the group consisting of perfume compositions, perfumed articles, colognes and perfume polymers, comprising the steps of intimately admixing with a consumable material base an aroma augmenting enhancing or imparting quantity and concentration of bicyclic lactone having the structure as recited in currently amended Claim 1 and thus cannot anticipate.

If the Examiner's opinion is to the contrary, Applicants request the Examiner to point out with specificity, by column and line number, where Naigre et al. discusses the process of Claim 1.

Claim 7 is dependent on independent Claim 1 and incorporate of the same limitations are allowable for the reasons stated above. Claim 8 is dependent on Claim 2 and is allowable for the reasons stated above.

Moreover Claim 1 is not obvious under 35 U.S.C. § 103(a) in view of Naigre et al. Applicants submit that the Examiner has not provided any guidance as to the Naigre et al. of any disclosure of a process for augmenting, enhancing or imparting an aroma in or to a consumable material selected from the group consisting of perfume compositions, perfumed articles, colognes and perfume polymers, comprising the steps of intimately admixing with a consumable material base an aroma

augmenting enhancing or imparting quantity and concentration of bicyclic lactone having the structure in currently amended Claim 1.

The Naigre et al. reference does not recite every limitation of Claim 4, which recites, inter alia,

- A perfumed article comprising a perfumed article base and an aroma augmenting, enhancing or imparting quantity and concentration of a bicyclic lactone...

having the structure in currently amended Claim 4.

Therefore, a rejection under 35 U.S.C. § 102(b) is improper and must be withdrawn.

Moreover Claim 4 is not obvious under 35 U.S.C. § 103(a) in view of Naigre et al. Applicants submit that the Examiner has not provided any guidance as to the Naigre et al. of any disclosure of a perfumed article comprising a perfumed article base and an aroma augmenting, enhancing or imparting quantity and concentration of a bicyclic lactone having the structure in currently amended Claim 4.

Naigre et al. provides no teaching or suggestion of the use of bicyclic lactones as fragrance materials.

The Naigre et al. reference does not recite every limitation of Claim 6, which recites, inter alia,

- A perfume composition comprising a perfume base and intimately admixed therewith an aroma augmenting, enhancing or imparting quantity of a bicyclic lactone...

having the structure currently claimed in amended Claim 6.

Therefore, a rejection under 35 U.S.C. § 102(b) is improper and must be withdrawn.

Moreover Claim 6 is not obvious under 35 U.S.C. § 103(a) in view of Naigre et al. Applicants submit that the Examiner has not provided any guidance as to the Naigre et al. of any disclosure of a perfumed composition comprising a perfume base and intimately admixed therewith an aroma augmenting, enhancing or imparting quantity of a bicyclic lactone having the structure in currently recited in amended Claim 6.

Naigre et al. provides no teaching or suggestion of the use of bicyclic lactones as fragrance materials.

Claims 1, 4 and 6-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wolinsky et al. in view of Chemical Abstracts Registry.

A claim is only anticipated if a single prior art reference discloses each and every element of the claimed invention. *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559 (Fed. Cir. 1992).

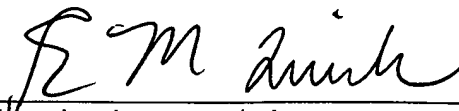
Therefore, the rejection of Claim 1, 4 and 6-8 under 35 U.S.C. 102(b) as being anticipated by Wolinsky et al. in view of Chemical Abstracts Registry is an improper reference and under 35 U.S.C. 102(b) and must be withdrawn.

Moreover Claims 1, 4 and 6-8 are not obvious under 35 U.S.C. § 103(a) Wolinsky et al. in view of Chemical Abstracts Registry. Applicants submit that the Examiner has not provided any guidance as to the Wolinsky et al. in view of Chemical Abstracts Registry of any teaching, suggestion or motivation of the use of those compounds in perfumed articles or any process for augmenting, enhancing or imparting an aroma in or to a consumable material as currently recited Claim 1, 4, 6 - 8. Claim 7 is dependent on independent Claim 1 and incorporate of the same limitations are allowable for the reasons stated above. Claim 8 is dependent on Claim 2 and is allowable for the reasons stated above.

The amendment of the claims has been made to correspond to the election of species as set forth above. Applicants have done this to expedite allowance of the claims and have noted that prosecution on the merits of this case is closed. Attached hereto is a copy of the claims indicating the amendments.

Applicants respectfully submit that the amended claims define patentable subject matter. Early and favorable consideration of the claims is requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "E M Quirk".

Elizabeth M. Quirk
Attorney for Applicants
Registration No. 53,646

International Flavors and Fragrances Inc.
521 West 57th Street
New York, N.Y. 10019
Telephone: (212) 708-293
FAX: (212) 708-7253

elizabeth.quirk@iff.com

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